IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 250 OF 1990

Ramjas Babunandan Yadav .. Petitioner

versus

Municipal Corporation of Gr. Mumbai .. Respondents

...

None for the petitioner.

Mr.A.J. Bhor for the respondents

CORAM : B.H. MARLAPALLE,J

DATED : 24th August 2005.

ORAL JUDGEMENT :-

1. This Contempt Petition was taken out for final hearing on 21st February 2005 and none was present for the petitioner. Today also when the petition is taken up for final hearing, none appears for the petitioner.

2. The petitioner alleges that the partners of respondent no.3 firm i.e. M/s.K.A. Patel & Sons are guilty of flouting the order passed by this Court on 18.8.1988 in AO No. 66 of 1988, by parting with the possession of flat no.4 of 2nd floor after the rejection of earlier Contempt Petition n.211 of 1989. However, the affidavit in reply filed by Mr.Ravilal K. Patel on behalf of respondent no.3 states that after the order dated 18.8.1988 was passed by this Court in AO No.466 of 1988, Contempt Petition no. 211 of 1989 was filed alleging that the said order dated 18.8.1988 was disobeyed wilfully. This Contempt Petition was dismissed by this Court on 29.11.1989. The order dated 29.11.1989 dismissing the Contempt Petition no.211/1989 reads as under:-

> "Heard Advocate for the petitioner.
> There is absolutely no merit in
> this application. Rejected"

The main contention of the petitioner is that the contemnor parted with the possession of flat no.3 on the first floor to one Shri Jadhavji who is occupying

the said flat with his family members and as per the petitioner, the respondent contemnor has disposed of flat no.1 situate on the first floor of Jaya Apartment to some other person. The order dated 18.8.1988 does not impose any ban against respondent no.3 to part with possession of the tenement. All that was required for the respondent no.3 to do was to give notice of plaintiffs suit in writing to each of the occupants. New occupants have not been impleaded as respondents so as to find out whether any notice was given to them when the flat no.4 was purportedly parted with.

3. Hence, there is no merit in this Contempt Petition and the same is hereby dismissed. Rule discharged.

B.H. MARLAPALLE, J